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ABSTRACT

During the middle 1960s, the Florida Board of Bar Examiners pioneered the inclusion of multiple-choice questions on the bar exam. This proved such a success that, in 1969, the National Conference of Bar Examiners formed a national committee to develop a program for a "national" objective bar examination. This exam is called the Multistate Bar Examination and was administered in a number of States early in 1972. The need for research to determine post-examination performance criteria is currently being ignored, but it is essential in establishing this bar exam as an effective licensing procedure. It is recommended that the National Conference of Bar Examiners establish another committee to specify procedures to answer questions of future performance. Otherwise, examinations and selection procedures are in jeopardy. (KM)

Movement To The Multistate Bar Examination--

What Next? The Demand for Post-Examination Performance Criteria

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It seems quite timely and appropriate to review some efforts during the past decade to improve the selection of individuals to study and/or practice "the law." Also, it may be helpful to restate salient notions necessary for the survival of a viable selection procedure.

Until the early to middle 1960's bar examinations had been predominantly essay and/or oral. During the middle 1960's, the Florida Board of Bar Examiners in conjunction with the Florida Supreme Court pioneered the inclusion of a significant proportion of scientifically designed objective multiple choice in the Florida Bar Examination with good success. Reports concerning these experiences can be found in:

1. The Bar Examiner, Vol. 36, Nos. 3-4, 1967, pp. 89-92, "A Research Evaluation of the use of Objective Tests for Admission to Legal Practice", by Goolsby.
2. The Journal of Educational and Psychological Measurement, Vol. 28, 1968, pp. 427-432, "Factorial Structure and Principal Correlates of the Florida Bar Examination," by Goolsby, Frary, and Lasco.
3. Journal of Legal Education, Vol. 20, No. 2, 1968, pp. 175-177, "A Study of the Criteria for Legal Education and Admission to the Bar," by Goolsby.
4. Educational and Psychological Measurement, Vol. 28, 1968, pp. 421-426, "Law School Selection and Performance and Subsequent Admission to Legal Practice," by Goolsby.

These reports alluded scientifically to the success of the use of objective testing in bar examinations in Florida, called for an expansion of the objective type testing to be at least half of the total examination, warned of the pitfalls of not maintaining a continuous more intensive research program relative to future examinations, demanded that a research program include criteria of success after admission to the bar and subsequent practice of the law, and presented extensive evidence of the need for better selection criteria for legal education (pre-bar examination).

In a paper, "Bar Examinations: Time for a Change?" (Goolsby, 1968), there was a response to arguments concerning admission to practice the law without rigorous examination by the editor of the Student Lawyer Journal. The response agreed with much of what the editor had to say, but pointed out the value of valid comprehensive testing and the fact that examination for admission was here to stay, like it or not.

In 1969 the National Conference of Bar Examiners formed a national committee of twelve professional people from the legal, measurement, and research areas to develop a program for a "national" objective bar examination. This committee was the response to the success the Florida Board had with objective testing. The "national" examination is called the Multistate Bar Examination and was administered in a significant number of states early in 1972.

Changes of this magnitude over such a short time span are indeed unusual and commendable. However, the precipitancy demands much more attention to research programs and pitfalls alluded to earlier in the reports concerning the pioneering Florida experience.

Immediately before the National Conference of Bar Examiners appointed the "national" committee, Goolsby (1969) presented a paper at a meeting of the Conference, "Requisites and Salient Characteristics of Bar Examinations to Justify Their Continued Use," again emphasizing the outcomes of the Florida experience outlining the necessary characteristics of bar examinations, and calling for extensive research and follow-up success information. John A. Winterbottom of Educational Testing Service presented a very similar paper at this meeting.

At the 1969 meeting of the National Conference some well known legal educators expressed the notion that a student studying law is as equally proficient in Torts, Criminal Law, Evidence, Constitutional Law, and all other areas of the law. Frary and Goolsby responded in a paper, "The Bar Examination: One Long Test or a Test Battery," to point out that students do perform differently in the various areas of the law and that there is need for testing in all areas to predict a comprehensive future performance criterion and/or criteria. This future performance criterion and/or criteria is what seems to be ignored. Granted it will be horribly expensive in terms of effort and expenditure of funds, but absolutely necessary.

Closure concerning examining and licensing was attained in a paper by Frary and Goolsby, "Increasing the Effectiveness and Efficiency of Bar Examinations" by making the point that a licensing procedure can be justified only to the extent that it passes future adequate performers and rejects future poor performers.

The time is now for many interchanges among various persons and groups concerning the closure question of future performance. The appointment of an "independent" committee similar to the Multistate Bar Examination Committee by the National Conference of Bar Examiners could function at the high level that the Multistate Committee functioned to specify pro-

cedures to answer questions of future performance. Otherwise, examinations and selection procedures are in jeopardy, especially in view of recent Supreme Court decisions on testing and selection in relationship to performance on the job.

Other references, mainly from people within the legal profession, concerning the information presented here related both directly and tangentially can be found in "An Annotated Bibliography Related to Bar Examinations and Admission to Legal Practice," by Goolsby and Wray.

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